

REMARKS

This paper is filed subsequent to the Board of Appeals rendering a decision affirming the Examiner's rejections presented in the Final Office Action of August 23, 2005. Applicants now submit this Amendment together with a Request for Continued Prosecution in order to present amended claims and reopen prosecution.

All claim rejections are respectfully traversed.

Reconsideration and further Examination are respectfully requested.

Claims 1-5, 7-16, 18-24, 26-35, 37-40, 42-48, 50-59, 61-64 and 66-68 and 71-75 stand rejected under 35 U.S.C. 102(e) based on U.S. patent 6,331,972 of Harris et al. ("Harris et al."). Applicants respectfully traverse this rejection.

Harris et al. disclose a system for personalizing an electronic device through a personal area network (Abstract, line 1). Figure 1 of Harris et al. shows a data communication network of "peers" 20 that are electronic devices (lines 11-20 of column 6). Harris et al. goes on to teach that each of the peer devices 20 shown in Figure 1 may establish a personal area network if it is compatible with another peer device in the communication network 22, and that two of the peer devices 20 must be in physical proximity in order for a communication link to be established so that needs and capabilities of the peer devices can be exchanged (see lines 21-45 of column 6).

Nowhere in Harris et al. is there disclosed or suggested any system or method for providing a personalized service in a communication system that includes:

detecting physical presence of a user, *wherein the detecting includes a determination, based on automatic detection of at least one physical attribute of the user's body directly from the user's body, that the user is currently in close physical proximity to the communication system*; and

providing the personalized service to the user based upon the physical presence of the user. (emphasis added)

as in the present independent claim 1. Analogous features are also found in independent claims 21, 45 and 71. In contradistinction, Harris et al. expressly teaches that tests for proximity are between "peers" that are electronic devices (see Harris et al. beginning at 11 of column 9), as determined by reception of a signal transmitted by that peer. The above aspects of Harris et al. describing peer proximity stand in contrast to the features of the present independent claims, which involve detecting physical presence of *a user* that includes *a determination, based on automatic detection of at least one physical attribute of the user's body directly from the user's body, that the user is currently in close physical proximity to the communication system.*

For the above reasons, Applicants respectfully urge that Harris et al. does not disclose or suggest all the features of the present invention as set forth in independent claims 1, 21, 45 and 71. Accordingly, Harris et al. does not anticipate the present independent claims 1, 21, 45 and 71 under 35 U.S.C. 102. As to the dependent claims rejected for anticipation based on Harris et al., they each depend from independent claims 1, 21, 45 and 71, and are believed to be patentable over Harris et al. for at least the same reasons.

Claims 6, 25 and 49 stand rejected for obviousness under 35 U.S.C. 103(a), based on the combination of Harris et al. and U.S. patent number 6,104,913 of McAllister ("McAllister"). Applicants respectfully traverse this rejection.

As previously noted, McAllister discloses a personal area network (PAN) device that enables communication of data using galvanic properties of the skin. When a person wearing a processor coupled to a McAllister PAN touches a sensor capable of communicating with the PAN, the processor sends and receives data through the PAN and the sensor. In the McAllister system, the processor stores personal information related to the wearer's telephone service, such as the person's identification and billing information, as well as information relating to the

person's telephone subscriber profile, defining that person's individualized telephone services. A telephone of McAllister communicates the data through the telephone network, to enable the network to provide personalized services.

As set forth above with regard to the rejections under 35 U.S.C. 102, Harris et al. does not disclose or suggest the features of the present independent claims 1, 21 and 45. Claims 6, 25 and 49 depend from those independent claims, and accordingly include all the limitations therein. Furthermore, nowhere in the combination of Harris et al. and McAllister is there disclosed or suggested any system or method for providing a personalized service in a communication system, including:

detecting physical presence of a user, *wherein the detecting includes a determination, based on automatic detection of at least one physical attribute of the user's body directly from the user's body, that the user is currently in close physical proximity to the communication system*; and

providing the personalized service to the user based upon the physical presence of the user. (emphasis added)

as in the present independent claim 1. Analogous features are also found in independent claims 21 and 45. Applicants therefore respectfully urge that the combination of Harris et al. and McAllister does not disclose or suggest all the features of the present invention as set forth in independent claims 1, 21 and 45, from which claims 6, 25 and 49 depend. As a result, the combination of Harris et al. and McAllister does not support a *prima facie* case of obviousness under 35 U.S.C. 103 with regard to claims 1, 21 and 45. Claims 6, 25 and 49 are respectfully believed to be patentable over the combination of Harris et al. and McAllister for at least the same reasons.

Claims 17, 36, 41, 60 and 65 stand rejected for obviousness under 35 U.S.C. 103(a), based on the combination of Harris et al. and U.S. patent number 5,493,692 of Theimer et al. ("Theimer et al."). Applicants respectfully traverse this rejection.

As previously noted, Theimer et al. disclose a method for selectively delivering electronic messages to an identified user or users in a system of mobile and fixed devices based on the context of the system and the environment of an identified user. Theimer et al. specifically disclose a system in which a User Agent starts up by locating and reading the User Profile and user calendar information of an identified user.

As set forth above with regard to the rejections under 35 U.S.C. 102, Harris et al. does not disclose or suggest the features of the present independent claims 1, 21 and 45. Claims 17, 36, 41, 60 and 65 depend from those independent claims, and accordingly include all the limitations therein. Furthermore, nowhere in the combination of Harris et al. and Theimer et al. is there disclosed or suggested any system or method for providing a personalized service in a communication system, including:

detecting physical presence of a user, *wherein the detecting includes a determination, based on automatic detection of at least one physical attribute of the user's body directly from the user's body, that the user is currently in close physical proximity to the communication system*; and

providing the personalized service to the user based upon the physical presence of the user. (emphasis added)

as in the present independent claim 1. Analogous features are also found in independent claims 21 and 45. Applicants therefore respectfully urge that the combination of Harris et al. and Theimer et al. does not disclose or suggest all the features of the present invention as set forth in independent claims 1, 21 and 45, from which claims 17, 36, 41, 60 and 65 depend. Accordingly, the combination of Harris et al. and Theimer et al. does not support a *prima facie* case of

obviousness under 35 U.S.C. 103 with regard to claims 1, 21 and 45. Claims 17, 36, 41 and 65 are respectfully believed to be patentable over the combination of Harris et al. and Theimer et al. for at least the same reasons.

Reconsideration of all pending claims is respectfully requested.

Applicants respectfully request that the rejections in the Office Action be withdrawn.

Applicants have made a diligent effort to place the application in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned, Applicants' Attorney at 617-630-1131 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

November 5, 2007
Date

/David Dagg/
David A. Dagg, Reg. No. 37,809
Attorney/Agent for Applicant(s)
McGuinness & Manaras LLP
125 Nagog Park Drive
Acton, MA 01720
(617) 630-1131